

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE ORDER

IN THE MATTER OF: LONNIE D. BRYANT AND SIERRA SUE BRYANT, DBA BRYANT'S MOBILE HOME PARK Wastewater Facility No. 06-56-00-6-06	ADMINISTRATIVE ORDER NO. 2010-WW-12
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TO: Lonnie D. Bryant
Sierra Sue Bryant, Owners
Bryant's Mobile Home Park
1022 Palean Street
Keokuk, Iowa 52632

I. SUMMARY

This administrative order (order) is issued to Lonnie D. Bryant and Sierra Sue Bryant, dba Bryant's Mobile Home Park due to failure to timely apply to renew an NPDES permit and failure to timely submit monthly operation reports (MORs). The order assesses an administrative penalty in the amount of \$2,000.00 and requires payment of a permit application fee of \$85.00.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Brandy Beavers, Environmental Specialist,
NPDES Section
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: (515) 242-6043

Relating to legal requirements:

Diana Hansen, Attorney at Law
Legal Services Bureau
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: (515) 281-6267

Mail payment of penalty to:

Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50310-0034

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II. JURISDICTION

This order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Lonnie D. Bryant and Sierra Sue Bryant own Bryant's Mobile Home Park located at 2466 340th Street, Keokuk, Iowa 52632. The legal description for the location of the waste disposal facility serving Bryant's Mobile Home Park is Section 4, T 65N, R 05W, Lee County, Iowa. Bryant's Mobile Home Park is a mobile home park community that has a population of 17 persons according to the most recent inspection completed on May 11, 2010.

2. The waste disposal system serving Bryant's Mobile Home Park consists of a two cell controlled discharge waste stabilization lagoon that treats primarily domestic waste from the mobile home park residents. The waste disposal system is operated pursuant to NPDES Permit No. 06-56-00-6-06, which expired on April 25, 2010. The waste disposal system discharges to Prices Creek, tributary to the Mississippi River.

3. The renewal application for the NPDES permit was required to be filed by 180 days prior to expiration of the NPDES permit or by October 27, 2009. This was a condition of the NPDES permit and a requirement under Department rules. The Department sent a renewal application form to this facility on January 19, 2009. The letter accompanying the form required the NPDES permit renewal application be completed and submitted to the Department by October 27, 2009. The Department did not receive a completed permit renewal application by the October 27, 2009 due date. A completed permit renewal application has not been submitted to date. The facility has not paid the required \$85.00 permit application fee.

On December 2, 2009, the Department sent a notice of violation letter to Lonnie and Sue Bryant for failure to timely submit the completed renewal application. The NPDES permit for this facility expired on April 25, 2010. Since that date this facility has been operating without an NPDES permit, in violation of the Iowa Code and Department rules.

4. By a letter dated December 9, 2009, Field Office No. 6 issued a notice of violation to Lonnie Bryant for failure to submit complete MORs for the months of July through October 2009. Mr. Bryant was informed that failure to submit MORs as required by the NPDES permit for this facility was a violation of 567 IAC 63.7(455B). The letter stated

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that MORs are needed to assess the efficiency of the wastewater facility and the impact of the discharge on the receiving stream. The letter provided that MORs are due by the 15th day of the month following the reporting period. FO 6 required that all the missing MORs be submitted to FO 6 by December 31, 2009. MORs for December 2009, January 2010 and February 2010 were received by FO 6 on March 16, 2010.

5. FO 6 conducted an inspection of the waste disposal system serving this mobile home park on May 11, 2010. The inspection report for the May 11, 2010 inspection stated that MORs for July 2008 through December 2008 and for July 2009 through November 2009 had not been submitted to FO 6. The inspection report also stated that for 12 of 15 months that MORs were submitted, the reports were submitted late. The May 18, 2010 notice of violation letter and cover letter to the inspection report required that all past due MORs be submitted by June 15, 2010. The requested MORs were not submitted to FO 6. This facility has not submitted MORs for July 2008 through December 2008, July 2009 through November 2009, and March 2010 through May 2010.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants to waters of the state without or contrary to a permit from the Department. Iowa Code section 455B.183 prohibits the construction or operation of waste disposal systems without or contrary to written permits from this Department. Iowa Code section 455B.174 authorizes the Director to issue permits for the operation of a disposal system.

Iowa Code section 455B.171(5) defines "disposal system". Disposal system is defined as "a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of sewage sludge." The term "includes sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge." The waste stabilization lagoon at Bryant's Mobile Home Park is a disposal system under this definition of disposal system.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems and discharge of pollutants into waters of the state. The Commission has done so at 567 IAC chapters 60- 69. Subrule 62.1(1) prohibits the discharge of pollutants to waters of the state unless authorized by a permit from this Department. Subrule 64.3(1) prohibits the operation of a waste disposal system unless authorized by a permit from this Department and prohibits operation of any waste disposal system contrary to any condition of a permit.

3. Department subrule 567 IAC 64.8(1) states that "[a]ny state NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an

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application for reissuance of the permit at least 180 days prior to the expiration of the permit." The facts stated above demonstrate noncompliance with this provision.

4. The terms of this facility's NPDES permit and the Department subrule required submission of an application for NPDES permit renewal to the Department no later than October 27, 2009. The Department did not receive a completed NPDES permit renewal application for this facility by the October 27, 2009 due date. The NPDES permit for this facility expired on April 25, 2010. This facility has been operating without an NPDES permit, in violation of the Iowa Code and Department rules since that date.

5. Department rule 567 IAC 63.7 provides for the submission of records of operation for wastewater treatment facilities to the Department. Under this rule MORs are required to be submitted to the Department within fifteen days following the close of the reporting period and in accordance with monitoring requirements derived from chapter 63 and included in the operation permit for the facility. Rule 63.9 requires MORs to include the results of all monitoring specified in or authorized by chapter 63.

This facility was sent a notice of violation letter by FO 6 on December 9, 2009 for failure to submit MORs for the months of July 2009 through October 2009. The letter required that the missing MORs be submitted to FO 6 by December 31, 2009. The inspection report for the May 11, 2010 inspection informed this facility of its failure to submit MORs for July through December 2008 and July through November 2009. The May 18, 2010 cover letter to the inspection report was issued as a notice of violation letter for failure to submit MORs timely. The facility has not submitted the missing MORs to date. It additionally has not submitted MORs for the months of March 2010 through May 2010 to date.

V. ORDER

THEREFORE, the Department orders Lonnie C. Bryant and Sierra Sue Bryant to comply with the following provisions in order to resolve this matter:

1. You are required to submit a complete renewal application for an NPDES permit within thirty (30) days of receipt of this order.
2. You are required to submit all past due MORs not submitted for 2008, 2009, and 2010 to FO 6 within thirty days of receipt of this order. The past due MORs are required to include all test results for monitoring required by the NPDES permit.
3. You are required to submit all future MORs to FO 6 by the 15th day following the end of the monitoring period as specified by the NPDES permit. The MORs are required to include all test results for monitoring required by the NPDES permit.

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4. You are required to pay an administrative penalty of \$2,000.00 and the \$85.00 permit application fee. The penalty and fee are due within sixty (60) days after receipt of this order.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with an administrative penalty of \$2,000.00.

a. **Economic Benefit.** The owner of this facility saved money by avoiding the time and resources for the timely completion and submission of the NPDES permit renewal application and the completion and submission of MORs. Since a complete permit renewal application and all required MOR's have not been received for this facility, the amount of \$300.00 is assessed for this factor.

b. **Gravity of the Violation.** Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies. Failure to timely submit a renewal application for an NPDES permit and all required MORs is a serious violation of such laws. The amount of \$900.00 is assessed for this factor.

c. **Culpability.** The Department sent a renewal application and a notice of violation letter to this facility advising it of its duty to timely submit its renewal application. Notice of violation letters were sent in 2009 and 2010 concerning this facility's failure to timely submit all MORs. The amount of \$800.00 is assessed for this factor.

VII. APPEAL RIGHTS


Pursuant to Iowa Code section 455B.175(1), and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, a written notice of appeal to the Commission may be filed within 30 days of receipt of this order. The notice of appeal should be filed with the Director of the Department, and must identify the specific portion or portions of this order being appealed and include a short and plain statement of the reasons for appeal. A

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contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

VIII. NONCOMPLIANCE

Compliance with Paragraphs 1- 4 of Section V of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of further administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties under Iowa Code section 455B.191.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 15 day of

July, 2010

Lonnie D. Bryant and Sierra Sue Bryant dba Bryant's Mobile Home Park- NPDES Permit No. 06-56-00-6-06 (copy to Central Office Wastewater Records File), Brandy Beavers- NPDES Section, Terry Jones- Field Office No. 6, Diana Hansen- Legal Services, EPA Region VII, I.B.1, I.B.2.a.